

EXHIBIT H

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10 Attorneys for Plaintiff and Counter-Defendant
ALL NIPPON AIRWAYS COMPANY, LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

14 ALL NIPPON AIRWAYS COMPANY,) Case No. C07-03422 EDL
15 LTD., Plaintiff,)
16 vs.)
17 UNITED AIR LINES, INC.,)
18 Defendant.)
ALL NIPPON AIRWAYS
COMPANY, LTD.'S
SUPPLEMENTAL RESPONSE
TO UNITED AIR LINES, INC.'S
FIRST REQUEST TO PRODUCE

AND RELATED COUNTER-CLAIM

21 Plaintiff and Counter-Defendant, ALL NIPPON AIRWAYS COMPANY,
22 LTD. (hereinafter referred to as "ANA"), by and through its attorneys, Condon &
23 Forsyth LLP, hereby responds to UNITED AIR LINES, INC.'S (hereinafter
24 referred to as "UAL") First Request to Produce as follows:

GENERAL OBJECTIONS

26 ANA hereby asserts the following General Objections, which are in addition
27 to, and are incorporated within, each of the specific Responses set forth below:

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1. ANA objects to each Request and each Definition, to the extent it seeks discovery that is inconsistent with or enlarges the scope of permissible discovery under the Federal Rules of Civil Procedure.

2. ANA objects to each Request to the extent it seeks discovery of matters protected by the attorney-client privilege, the attorney work-product doctrine, or other applicable privilege or protection. ANA objects to each and every Request to the extent that it calls for the disclosure of any information or document, which was prepared in anticipation of litigation or for trial, which otherwise constitutes work product or attorney-client privileged information, which is protected by the self-evaluative privilege, the joint defense privilege, applicable state or federal regulations, or other applicable privilege, or which otherwise is immune from discovery. Such privileged information will not be disclosed and any inadvertent disclosure thereof will not be deemed a waiver of any privilege or protection.

3. ANA objects to each Request to the extent it seeks the disclosure of trade secrets, confidential research and development, or other confidential proprietary and commercial information, except subject to an appropriate Confidentiality Order. Such privileged information will not be disclosed and any inadvertent disclosure thereof will not be deemed a waiver of any privilege or protection.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

With regard to your claim "damages for loss of use in excess of \$1.5 Million as pled in the complaint in this litigation filed against United, produce all known documents which relate to and/or which you may or will rely upon in support of your intention as to the existence and the amount of such lost use damages.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

2 See General Objections. Without waiving these objections, ANA states that it will
3 produce all non-privileged documents currently in its possession, custody, or
4 control, if any, that have not already been produced. See Bates Nos. ANA 001295
5 through 001335, and 001355 through 001623.

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7 **REQUEST FOR PRODUCTION NO. 2:**

8 With regard to ANA Pilot Teruo Usui, produce documents reflecting disciplinary
9 action(s) of any type relating to him, whether relating to the accident at issue in
10 this litigation or any other matter for which he was disciplined.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

12 See General Objections. ANA is not aware of any document responsive to this
13 request.

14

15 **REQUEST FOR PRODUCTION NO. 3:**

16 With regard to ANA Pilot Bishin Yamaguchi, produce documents reflecting
17 disciplinary action(s) of any type relating to him, whether relating to the accident
18 at issue in this litigation or any other matter for which he was disciplined.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

20 See General Objections. ANA is not aware of any document responsive to this
21 request.

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23 **REQUEST FOR PRODUCTION NO. 4:**

24 With regard to ANA Pilot Yusuke Nishiguchi, produce documents reflecting
25 disciplinary action(s) of any type relating to him, whether relating to the accident
26 at issue in this litigation or any other matter for which he was disciplined.

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

2 See General Objections. ANA is not aware of any document responsive to this
3 request.

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5 **REQUEST FOR PRODUCTION NO. 5:**

6 With regard to the cockpit voice recorder in the ANA aircraft on the date of the
7 incident involved in this litigation, produce an unedited copy of the CVR tape
8 reflecting all conversation between the ANA crew and United ramp control, air
9 traffic control, ground personnel and/or between the ANA pilots.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

11 See General Objections. ANA also objects on the grounds that the CVR is not
12 discoverable pursuant to 49 U.S.C. § 1114, 1154.

13

14 **REQUEST FOR PRODUCTION NO. 6:**

15 With regard to Teruo Usui, Bishin Yamaguchi, and Yusuke Nishiguchi, produce
16 unredacted copies of all file materials reflecting with regard to each of these ANA
17 pilots, any accident/incidents which they were involved between 1995 to date, any
18 disciplinary actions between 1995 to date, and records pertaining to their training
19 and certification between 1995 to date. To the extent you claim work
20 product/privilege, provide a log with regard to those documents being withheld.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

22 See General Objections. ANA also objects on the grounds that this Request is
23 overly broad, unduly burdensome, not relevant to any claims or defenses, and not
24 reasonably calculated to lead to the discovery of admissible evidence. Documents
25 responsive to this request have already been produced by ANA. UAL agreed to
26 retroactively apply the Confidentiality Order which UAL was directed to revise
27 pursuant to the Court's November 19, 2007 Order to these documents. ANA has

1 not received such Confidentiality Order. ANA has reserved Bates Nos. ANA
2 001624 through 001646 for documents responsive to this request.
3

4 **REQUEST FOR PRODUCTION NO. 7:**

5 With regard to the "Standard Ground Handling Agreement" including "Annex A –
6 Ground Handling Services" and "Annex B - United Service IATA Standard
7 Ground Handling Agreement" attached to the "Standard Ground Handling
8 Agreement" between ANA and United in effect on October 7, 2003, produce all
9 documents which reflect or pertain to the negotiating of the terms of this contract,
10 the intent/interpretation of ANA with regard to the term contained in that contract,
11 and the applicability or inapplicability of the agreement with regard to the events
12 of October 7, 2003 at SFO which is the subject of this litigation. To the extent you
13 claim any of these documents as work product/privileged, provide a log with
14 regard to those documents being withheld.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

16 See General Objections. Without waiving these objections, ANA states that it will
17 produce all non-privileged documents currently in its possession, custody, or
18 control, if any, that have not already been produced. See Bates Nos. ANA 001336
19 through 001346.

20
21 **REQUEST FOR PRODUCTION NO. 8:**

22 With regard to damages referenced in your complaint filed against United in this
23 litigation relating to "repair costs in the amount of \$3,106,233.49," produce a copy
24 of all known documentation which relates to and/or upon which you may or will
25 rely in support of your calculations as to the nature and amount of the damages
26 sustained.

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

2 See General Objections. Without waiving these objections, ANA states that it will
3 produce all non-privileged documents currently in its possession, custody, or
4 control, if any, that have not already been produced. See Bates Nos. ANA 001295
5 through 001335, and 001355 through 001623.

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7 **REQUEST FOR PRODUCTION NO. 9:**

8 With regard to any photographs, video and/or DVD relating to the damage to the
9 ANA and/or United aircraft, or relating to the circumstances leading up to the
10 collision which is at issue in this litigation, produce a complete, unedited color
11 copy of same.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

13 See General Objections. Without waiving these objections, ANA states that it will
14 produce all documents in its possession, custody, or control, that have not already
15 been produced. See Photographs, Bates Nos. ANA 001071, 001072, 001128,
16 001129, 001114 through 001127, 001154 through 001206, and 001347 through
17 001354. See Video, CD, and/or DVD attached hereto, Bates Nos. ANA 001134-
18 001136, 001138, and 001140.

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20 **REQUEST FOR PRODUCTION NO. 10:**

21 With regard to any ANA policy relative to ANA pilots clearing potential conflicts
22 with other aircraft prior to or during taxi which was in effect before and/or after the
23 incident involved in this litigation, produce a copy of same. To the extent the
24 policy was modified, produce a copy of all versions of the policy.

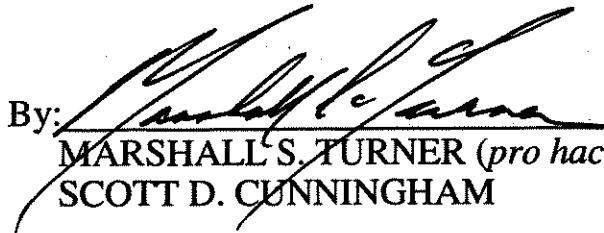
25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

26 See General Objections. Without waiving these objections, ANA is currently
27 searching its records to locate documents responsive to this request and will

1 produce any non-privileged documents responsive to this request that may be
2 located.

3 Dated: December 13, 2007

CONDON & FORSYTH LLP

4 By: 

5 MARSHALL S. TURNER (*pro hac vice*)
6 SCOTT D. CUNNINGHAM

7 Attorneys for Plaintiff and Counter-Defendant
8 ALL NIPPON AIRWAYS COMPANY, LTD.

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **ALL NIPPON AIRWAYS COMPANY, LTD.'S SUPPLEMENTAL RESPONSE TO UNITED AIR LINES, INC.'S FIRST REQUEST TO PRODUCE** was mailed this 13TH day of December, 2007, to:

6	<p>Scott R. Torpey, Esq. Jaffe, Raitt, Heuer & Weiss 2777 Franklin Road, Suite 2500 Southfield, MI 48034-8214 Phone: (248) 727-1461 Fax: (248) 351-3082</p>	Attorneys for defendant
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8		
9		
10	<p>Jeffrey A. Worthe, Esq. Worthe, Hanson & Worthe The Xerox Centre 1851 East First Street, Ninth Floor Santa Ana, CA 92705</p>	Attorneys for defendant
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12		

13 in a properly addressed wrapper in an official depository under the exclusive care
14 and custody of the United States Post Office Department within the State of New
15 York. 

Heather L. Jackson
HEATHER L. JACKSON

18 Sworn to before me this
13th day of December, 2007

19
20 Barbara A. Bennis
Notary Public

21 BARTHOLOMEW J. BANINO
22 Notary Public, State of New York
23 No. 02BA6015873
Qualified in Westchester County
Commission Expires November 9, 2010